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106TH CONGRESS
2D SESSION

H. R. 3765

To amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to prevent group and individual health insurance coverage and group health plans from seeking to recover more than their costs in cases of third party recoveries.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 29, 2000

Mr. WISE introduced the following bill; which was referred to the Committee's on Commerce, and in addition to the Committees on Education and the Workforce, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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A BILL

To amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to prevent group and individual health insurance coverage and group health plans from seeking to recover more than their costs in cases of third party recoveries.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Health Insurance Liability Recovery Protection Act of 2000".

SEC. 2. PATIENT PROTECTION IN CASE OF THIRD PARTY RECOVERIES.

(a) GROUP HEALTH PLANS.—

(1) PUBLIC HEALTH SERVICE ACT AMENDMENTS.—Subpart 2 of part A of title XXVII of the Public Health Service Act is amended by adding at the end the following new section:

"SEC. 2707. STANDARD RELATING TO PATIENT PROTECTION IN CASE OF THIRD PARTY RECOVERIES.

"(a) REQUIREMENT.—A group health plan, and a health insurance issuer offering group health insurance coverage, may not recover (or seek to recover) from a participant or beneficiary more than the amounts expended by the plan or issuer on behalf of the participant or beneficiary in the case of amounts recovered by such a participant or beneficiary as a result of a settlement or judgment in a liability or other action.

"(b) NOTICE.—A group health plan under this part shall comply with the notice requirement under section 714(b) of the Employee Retirement Income Security Act of 1974 with respect to the requirements of this section as if such section applied to such plan.".

(2) ERISA AMENDMENTS.—(A) Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following new section:

"SEC. 714. STANDARD RELATING TO PATIENT PROTECTION IN CASE OF THIRD PARTY RECOVERIES.

"(a) REQUIREMENT.—A group health plan, and a health insurance issuer offering group health insurance coverage, may not recover (or seek to recover) from a participant or beneficiary more than the amounts expended by the plan or issuer on behalf of the participant or beneficiary in the case of amounts recovered by such a participant or beneficiary as a result of a settlement or judgment in a liability or other action.

"(b) NOTICE UNDER GROUP HEALTH PLAN.—The imposition of the requirement of this section shall be treated as a material modification in the terms of the plan described in section 102(a)(1), for purposes of assuring notice of such requirements under the plan; except that the summary description required to be provided under the last sentence of section 104(b)(1) with respect to such modification shall be provided by not later than 60 days after the first day of the first plan year in which such requirement apply.".

(B) Section 732(a) of such Act (29 U.S.C. 1191a(a)) is amended by striking "section 711" and inserting "sections 711 and 714".

(C) The table of contents in section 1 of such Act is amended by inserting after the item relating to section 713 the following new item:

"Sec. 714. Standard relating to patient protection in case of third party recoveries.".

(3) INTERNAL REVENUE CODE AMENDMENTS.—

(A) IN GENERAL.—Subchapter B of chapter 100 of the Internal Revenue Code of 1986 is amended—

(i) in the table of sections, by inserting after the item relating to section 9812 the following new item:

"Sec. 9813. Standard relating to patient protection in case of third party recoveries."; and

(ii) by inserting after section 9812 the following:

"SEC. 9813. STANDARD RELATING TO PATIENT PROTECTION IN CASE OF THIRD PARTY RECOVERIES.

"A group health plan may not recover (or seek to recover) from a participant or beneficiary more than the amounts expended by the plan on behalf of the participant or beneficiary in the case of amounts recovered by such

a participant or beneficiary as a result of a settlement or judgment in a liability or other action.".

(B) CONFORMING AMENDMENT.—Section 4980D(d)(1) of such Code is amended by striking "section 9811" and inserting "sections 9811 and 9813".

(b) INDIVIDUAL HEALTH INSURANCE.—Part B of title XXVII of the Public Health Service Act is amended by inserting after section 2752 the following new section:

"SEC. 2753. STANDARD RELATING PATIENT PROTECTION IN CASE OF THIRD PARTY RECOVERIES.

"(a) IN GENERAL.—The provisions of section 2707(a) shall apply to health insurance coverage offered by a health insurance issuer in the individual market in the same manner as they apply to health insurance coverage offered by a health insurance issuer in connection with a group health plan in the small or large group market.

"(b) NOTICE.—A health insurance issuer under this part shall comply with the notice requirement under section 714(b) of the Employee Retirement Income Security Act of 1974 with respect to the requirements referred to in subsection (a) as if such section applied to such issuer and such issuer were a group health plan.".

(c) EFFECTIVE DATES.—

(1) GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE.—Subject to paragraph (3), the amendments made by subsection (a) apply with respect to group health plans for plan years beginning on or after January 1, 2001.

(2) INDIVIDUAL HEALTH INSURANCE COVERAGE.—The amendment made by subsection (b) applies with respect to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after such date.

(3) COLLECTIVE BARGAINING EXCEPTION.—In the case of a group health plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before the date of enactment of this Act, the amendments made subsection (a) shall not apply to plan years beginning before the later of—

(A) the date on which the last collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of enactment of this Act), or

(B) January 1, 2002.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining

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agreement relating to the plan which amends the plan solely to conform to any requirement added by subsection (a) shall not be treated as a termination of such collective bargaining agreement.

(d) COORDINATION OF ADMINISTRATION.—The Secretary of Labor, the Secretary of the Treasury, and the Secretary of Health and Human Services shall ensure, through the execution of an interagency memorandum of understanding among such Secretaries, that—

(1) regulations, rulings, and interpretations issued by such Secretaries relating to the same matter over which two or more such Secretaries have responsibility under the provisions of this Act (and the amendments made thereby) are administered so as to have the same effect at all times; and

(2) coordination of policies relating to enforcing the same requirements through such Secretaries in order to have a coordinated enforcement strategy that avoids duplication of enforcement efforts and assigns priorities in enforcement.

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